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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Report of the High Commissioner submitted pursuant to General Assembly resolution 48/141

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Introduction

1. This report is presented to the Commission on Human Rights at a moment when the Commission is in a position to exercise real leadership as the main human rights organ of the United Nations. At the beginning of this new century, and in the light of the rapid changes taking place, accentuated by innovations in information technologies, we need rules of the road to guide us. International human rights norms and standards form part of those rules of the road, and nowhere is this more evident than in combating the scourges of racism, racial discrimination, xenophobia and related intolerance.

2. During the last decade alone, racial and ethnic tensions have led to political conflicts and even resulted in genocide, war crimes and crimes against humanity being committed against certain groups. Despite the defeat of apartheid, racially discriminatory laws and policies continue to exist in some States, affecting the civil, cultural, economic, political and social rights available to some groups in their own country.

3. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held from 31 August to 7 September 2001 in Durban, South Africa, will provide a timely opportunity not only to confront the past, but also to shape the present, and the future. This Conference is more than a forum for political negotiations. It should be viewed as the time to renew the commitment to respect the equality, dignity and rights of all members of the human family; to take stock of what has already been done to combat racial discrimination; and to take resolute action to eradicate racism in all its forms now.

4. I have engaged the resources of my Office in the efforts to facilitate a successful outcome of the Conference. OHCHR stands ready to assist States to address challenges in the continuing struggle against intolerance in all its forms. At this point, 74 heads of State or Government have signed the Visionary Declaration launched by President Thabo Mbeki of South Africa during the Millennium Summit, and of which former President Nelson Mandela is Patron. In cooperation with the Inter-Parliamentary Union, support for the Visionary Declaration has also been received from Presidents of national Parliaments. During the preparatory process of expert regional seminars and regional preparatory conferences, experts, representatives of Governments of each region and a large number of non-governmental organizations have been participating in preparing the regional contributions. Heads of regional and international organizations, spiritual leaders, the international trade union movement, international business associations and Goodwill Ambassadors have all been invited to address issues of racism, intolerance and xenophobia in the period leading up to the World Conference. Now it is the turn of the Commission on Human Rights itself to provide the political and intellectual leadership on these issues and give impetus to the preparatory committee whose second session is scheduled for 21 May to 1 June.

5. Almost all questions before the World Conference are already on the agenda of the Commission on Human Rights. They include the questions of racial discrimination, the rights of minorities and indigenous people, migration, contemporary forms of slavery, religious intolerance, freedom of expression, trafficking, violence against women. How these issues are discussed, negotiated and shaped by the Commission will have an impact on the Conference

itself. States should not shy away from the difficult issues but should approach this process with a sense of commitment to achieve concrete results. With tolerance and respect much can be accomplished.

6. It appears to be particularly appropriate, therefore, that my report to the fifty-seventh session of the Commission on Human Rights should be devoted to some of the pressing contemporary issues in the collective struggle against racism and racial discrimination on which the Commission should provide guidance and leadership. This is not meant to be an exhaustive examination of all aspects of racism and racial discrimination; rather it is an examination of some key issues which the Commission should consider.

7. The report addresses the topics of State responsibility to eliminate racial discrimination, contemporary trends in racism, gender and racism, and youth and racism, which are some of the main challenges that will have to be considered during the World Conference. These broad themes also allow us to consider other crucial topics, such as racial and ethnic conflicts, migration, indigenous rights, contemporary forms of slavery, hate speech, the treatment of minorities, discrimination in employment and other violations of economic, social and cultural rights. Some of these questions were already addressed in my last report to the Commission (E/CN.4/2000/12 and Add.1). In addressing these issues, this report draws upon the work of the Committee on the Elimination of Racial Discrimination and the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance of the Commission on Human Rights. The many papers that were presented during the expert seminars held in preparation for the World Conference were invaluable in highlighting particular problems. The results of the regional preparatory meetings that were held in Strasbourg, Santiago, Dakar and Tehran have produced much food for thought.

8. The Commission's attention is also drawn to my report to the Economic and Social Council (E/2000/83), which focused on the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance, the follow-up to the World Summit for Social Development and the Fourth World Conference on Women, as well as national institutions; my report to the General Assembly at its fifty-fifth session (A/55/36) and the report of my visit to the occupied Palestinian Territories, Israel, Egypt and Jordan focusing on the human rights situation in the occupied Palestinian Territories (E/CN.4/2001/114).

9. Annexed to the present report is a descriptive list of some of my country missions.

I. RACISM IN A CHANGING WORLD

10. As noted in the report to the fifty-sixth session, new manifestations of discrimination present serious challenges to social cohesion in many countries. The last decade has been characterized by paradoxical developments. On the one hand, new and efficient ways of deepening cooperation and reducing the centrifugal forces of sovereignty and nationalism are evolving. National boundaries are being eroded by new developments in communication technology and the increasing willingness of States to submit aspects of their sovereignty to common political and economic associations. On the other hand, violent assertions of sovereignty and nationalism are on the rise, and the integrity of nation States is increasingly being challenged by forces of ethnic, cultural, religious or linguistic separation. As a

consequence, internal conflicts are destabilizing many countries. Religious, ethnic and racial minorities as well as indigenous populations particularly suffer. In many countries they have often been the main victims of prejudice; they are the subject of violence and stigma and their civil, cultural, economic, political and social rights have been systematically violated.

11. Racism and intolerance constitute an attack on core human values. Acceptance of the diversity of humankind, as evidenced by the Universal Declaration of Human Rights, is one of the most significant achievements of the last century. The Declaration is a powerful restatement of the collective realization that all human beings are entitled to the same rights, irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It is a powerful reiteration that everyone belongs to the one human family.

12. By 1963, the international community had set for itself the task of eradicating racial discrimination, with the adoption of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination. In 1965, States strengthened their commitment to this objective with the adoption of the International Convention on the Elimination of All Forms of Racial Discrimination. Two world conferences were held in 1978 and 1983 and programmes of action adopted.

13. Yet, racism, racial discrimination, xenophobia and other forms of related intolerance are still part of daily reality. My Office receives regular information from all parts of the world regarding serious violations of the right to be free from racial discrimination. Violence against certain groups and segregation and discrimination in housing, education and employment continue to be the norm in many societies. Some countries have acknowledged the problem and have been taking concrete measures to address it. Others have yet to do so. Some States continue to deny the existence of racial discrimination. This makes progress very difficult. Recognition of the problem is a necessary first step towards finding a solution.

14. Therefore, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance is timely and needed. It is held against the background of several other world conferences that reflected on specific areas related to racism. The Vienna Declaration and Programme of Action resulting from the World Conference on Human Rights in 1993 identified the elimination of racism and racial discrimination as a *primary objective* for the international community and for the United Nations human rights programme. The International Conference on Population and Development in 1994, the World Summit for Social Development in 1995, the Fourth World Conference on Women in 1995, and the follow-up processes to these conferences, all helped to deepen the understanding of how racism persists in the real world and to identify ways and means to combat it.

15. Amongst the first human rights issues that the United Nations, in particular the Commission on Human Rights, had to grapple with in its early days were those related to racial discrimination. In 1965, the Commission was faced with a number of individual petitions from South Africa and came under considerable pressure to deal with them. This forced it to elaborate procedures to deal with issues connected to racism. A taboo was broken in 1967 when the Commission established the Ad Hoc Working Group of Experts on Human Rights in Southern Africa.

16. Article 1 (1) of the International Convention on the Elimination of all Forms of Racial Discrimination provides the international legal definition of racial discrimination. It defines the term "racial discrimination" as:

> "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

17. Discrimination can be overt and covert. In addition to the violence and intimidation that is often associated with racial discrimination, racism manifests itself in many less dramatic ways which seriously affect the enjoyment of daily life by the victims. Government policies and private sector policies and practices can be racially neutral on the surface, but may be discriminatory in their impact. An example is mandatory education requirements for jobs that can lead to de facto discrimination in the labour market against groups who are denied adequate access to basic education. States, the business sector and other institutions need to consider the impact of their policies to ensure that they do not embody discrimination and take corrective action.

18. Racism and racial discrimination provoke very strong feelings of offence, humiliation, shame and pain in their victims in addition to material disadvantage. It is often very difficult for victims to articulate their feelings, and because art and literature have played an important role in this regard I have nominated a number of artists and writers to be amongst the Goodwill Ambassadors promoting awareness of racism in the context of the World Conference.

19. For all these reasons it is important that the international community respond positively to article 2 (2) of the International Convention, which requires States, when the circumstances so warrant, to take "special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms". Equally, article 6, which protects the right of individuals to effective protection and remedies, through the competent national tribunals and other State institutions, against any act of racial discrimination, needs to be given greater effect than has been the case to date.

II. STATE RESPONSIBILITY: THE PATH OF THE INTERNATIONAL CONVENTION

20. The United Nations was founded on the premise that diversity is a fundamental value of humanity. In the preamble to the Charter of the United Nations, States pledge their determination "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small". States therefore have a primary responsibility to halt violations of human rights, including acts of racism, racial discrimination, xenophobia and related intolerance. In the lead-up to the World Conference, all Governments should review their policies and ensure that these policies do not, directly or indirectly, discriminate against particular groups in society.

21. A major target is for all States, by the time of the World Conference, to have accepted the international framework to combat racism. Only 157 States were parties to the International Convention as of 30 January 2001, in contrast with the Convention on the Rights of the Child which had been ratified or acceded to by 191 States. I have written to those States that are not yet party to the Convention, encouraging them to ratify or accede to it before the World Conference convenes. In some cases, failure to sign or ratify may have been due to technical or resource problems. My Office stands ready to assist those countries that are constrained by a lack of financial or technical means, especially developing countries, to achieve this important objective.

22. The Committee on Racial Discrimination (CERD), established to examine the implementation of the Convention, has undertaken important work that could provide the building blocks for further action at the World Conference and beyond. States should view the reporting process to CERD as an important opportunity for evaluation, reflection and action. The work of CERD is an ongoing process that permits the periodic examinations of national laws, policies, strategies and practices. Its concluding observations are designed to assist States in moving forward to eliminate racial discrimination at the national level. In leading up to the World Conference, States should take the opportunity to evaluate their systems and identify practical measures to advance in the struggle against racism.

23. On a policy level, the Committee also provides insights for further reflection. Perhaps most important is its long-standing position that no State is free from racial discrimination and that every State needs to continuously take vigorous and effective action to implement the provisions of the Convention. Its general recommendations also highlight challenges in the field of racial discrimination and suggest possible avenues for action. For example, CERD has issued general recommendations on the gender dimension of racial discrimination; on the rights of indigenous peoples; on the rights of refugees and displaced persons; on the rights of ethnic or religious groups or minorities; on the rights of the Roma, an important minority group; on the rights of non-citizens generally; on the rights to exercise civil, political, economic, social and cultural rights free of racial discrimination; and on hate speech. The Committee has also adopted general recommendations dealing with the importance of combating prejudices which lead to racial discrimination through teaching, education, culture and information; and on the importance of the training of law enforcement officials in the protection of human rights; and the importance of national institutions in the implementation of the provisions of the Convention and the elimination of racial discrimination. Many of these important topics will be debated and negotiated at the World Conference and the CERD general recommendations provide interesting insights and an important basis for further reflection.

III. CONTEMPORARY TRENDS IN RACISM

24. Rapid change and new developments in technology that have fundamentally improved our ability to communicate and spread the human rights message around the world also contribute to, facilitate and foster the creation of prejudices against certain groups. New sets of people have been brought together in new circumstances. Both the public and private sectors are in the process of dynamic change and need to fully assume their responsibility in the struggle against racism. The following are some reflections on three issues: the movement of people, the movement of information and the movement of capital.

A. The movement of people

25. Remarkable advances in transportation have facilitated the ability of people to cross vast distances and even continents in a relatively short time. There are many reasons why people travel, and why human beings leave their homes. Some leave in search of better opportunities and improved standards of living. Others flee conflict or persecution. Some cross borders whilst others remain within the territory of their own State. In the following paragraphs particular attention is paid to the problems faced by migrant workers and their families, trafficked persons, especially women and children, asylum-seekers, refugees and the internally displaced. Most of these questions are on the agenda of the Commission on Human Rights. The Commission could usefully reflect on them in the context of the debate on racism, racial discrimination, xenophobia and related intolerance.

Migration

26. That migration brings peoples from different cultures into a common labour force could be a source of empowerment for the individuals concerned, as well as for the societies of origin and destination. By filling a gap in the labour force in the country of destination migrants often benefit from better economic opportunities. On the other hand, migration can also lead to rejection, hostility and exclusion, including residential segregation and ethnic ghettos. Critical issues of identity and difference, the "self" and the "other", sometimes develop. Xenophobia may surface, as a result of which migrants may be subjected to humiliation, discrimination and racism. In many parts of the world, they have been harassed, intimidated, threatened, subjected to intolerable work conditions, arrested, detained and deported without due process. They are sometimes even killed.

27. Undocumented migrants face particular problems. It should be reiterated that to be free from racial discrimination is a fundamental right. Even if illegal or undocumented migrant workers may not be entitled to the same rights as legal migrants, States are still under a duty to safeguard and protect everyone who lives under their jurisdiction from violence and acts of racism, xenophobia and intolerance and to ensure that their human rights are respected.

28. In addition to the general provisions of international human rights law, a number of international instruments specifically address the issue of migration. These include the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990, which has been ratified so far by only 15 States, and the Migration for Employment Convention (Revised) (No. 97) of 1949 and the Migrant Workers (Supplementary Provisions) Convention (No. 143) of 1975 of the International Labour Organization (ILO). However, the majority of States have not ratified these Conventions or do not implement them effectively: according to the ILO, only 41 States are party to Convention No. 97 and only 18 States are party to Convention No. 143.

29. The question of illegal migration has been on the international agenda for some time. The recently adopted Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, has received widespread support. The Convention, including this Protocol, was adopted by the General Assembly on 15 November 2000. As of 17 January 2001, 82 States had signed it. Its

principal focus is the organized-crime aspect of migrant smuggling. While the Protocol contains a number of provisions aimed at protecting the rights of smuggled migrants, these are clearly secondary to measures aimed at preventing illegal migrant flows. It is therefore essential that the Protocol be implemented in a manner consistent with existing human rights standards.

Trafficking in human persons

30. Each year, millions of individuals, the vast majority of them women and children, are tricked, sold, coerced or otherwise become involved in situations of exploitation from which they cannot escape. People are trafficked for many reasons: to become domestic workers, as part of the labour force, or as part of the sex trade. Many find themselves engaging in prostitution against their will.

31. The conditions of trafficked persons often amount to a contemporary form of slavery. Many are intimidated while others are physically restrained. Many are tied to their situations by debt-servicing agreements that amount to little more than bondage. Many have their passports confiscated; confined to certain locations or domiciles; restricted from communicating with relatives and friends; denied basic labour rights and adequate working conditions; deprived of basic health care and sometimes of their reproductive rights; are raped, brutalized and sexually abused. These individuals are the commodities of a massive global industry, which appears to operate with a high degree of impunity.

32. There is a direct link between trafficking and discrimination. Like all other forms of irregular migration, trafficking involves movement from poorer countries to relatively wealthier ones and racial discrimination is apparent at each stage of the trafficking cycle. Members of certain racial or ethnic groups may be more vulnerable to trafficking because of the poverty in which they live, with limited access to education, housing, employment or legal protection; in addition, persons from certain racial groups may be more likely to be targeted because their racial identity is more sought after, for example in prostitution or certain forms of labour.

33. Once they have been trafficked to another country, members of a certain race or ethnic group may again become victims of racism, racial discrimination or xenophobia. Too often the victims of trafficking are treated like criminals and penalized while the traffickers go free. Prejudice on the grounds of race, ethnicity, colour, nationality or descent is clearly a factor in many such cases. The justice system may operate against trafficked persons who are in a foreign environment, perform what is considered menial work, are afraid to testify against their abusers, often do not speak the language and are unable to access social services or seek legal advice.

34. Until recently, international human rights law was not able to deal effectively with contemporary migration issues such as trafficking, despite the fact that trafficking has been on the international legal agenda for almost a century and has been the subject of a number of agreements. The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which was adopted in 1949 and which contains serious gaps with regard to contemporary forms of trafficking, has not been widely ratified.

35. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime was also adopted by the General Assembly on 15 November 2000. This Protocol has a number of aims. The first is to prevent and combat trafficking in persons, paying particular attention to the protection of women and children. Second, it aims to promote and facilitate cooperation among States parties on this issue. States parties will be required to criminalize trafficking and related conduct, to strengthen border controls and to improve law enforcement responses to trafficking. The Protocol contains a number of provisions providing for protection of and assistance to trafficked persons. However, many of these are not obligatory and it is up to each State party to determine the extent to which it would support victims of trafficking. States should ratify this Protocol and consider carefully the link between the Protocol's law enforcement and protection provisions. Human rights principles should be at the core of any effective strategy to address the problems related to trafficking in persons.

Displacement

36. In recent years individuals and groups have fled systematic persecution on the basis of their race, ethnicity, religion, or descent in almost all regions of the world. Individuals and groups fleeing from genocide, ethnic cleansing, massacres, torture, destruction and outright hatred have sought refuge in other countries. While welcoming those who are escaping persecution is an important demonstration of human solidarity, States where such violations are taking place remain responsible for those violations. They have a two-fold duty: to suppress the violations and to end the impunity often enjoyed by the perpetrators.

37. Whereas article 14 of the Universal Declaration of Human Rights affirms everyone's right "to seek and enjoy in other countries asylum from persecution", many countries are reviewing their laws and policies to tighten the openings available for those seeking asylum. Refugees in flight from genuine persecution often face rejection, discrimination, intolerance, abuse and violence in the receiving country.

38. Individuals fleeing persecution are sometimes denied refugee status in other countries because they are escaping private rather than State persecution and some legal systems do not accept refugees unless the author of the persecution is the State or its agents. This means that those who are persecuted by racist groups because they belong to a certain race, ethnicity, descent, or language group are not eligible for refugee status in these countries. This is a serious constraint in the fight against racism. The failure or inability to protect individuals from persecution, rather than the status of author of the persecution, should be the main consideration in asylum policy.

39. Another troubling issue is the tendency to place a blanket exclusion on the granting of refugee status to persons travelling from what are categorized by some States as "safe" countries. Such a policy places on the individual fleeing persecution the huge burden of trying to overturn a presumption which might be impossible to rebut, regardless of the actual circumstances of the case.

40. Violent attacks, harassment and intimidation of asylum-seekers and refugees by racist groups is a cause of extreme concern. Violent racism should not be tolerated and law enforcement efforts must focus on both prevention and protection. An effective system of intervention must be established to respond to the urgent needs of asylum-seekers and refugees who are victims of violence based on racial discrimination and to enhance their protection.

41. Asylum-seekers are also often denied basic rights such as education and adequate health care. Policies should be reviewed to ensure that asylum-seekers and refugees are treated with dignity and that their fundamental rights and freedoms are guaranteed.

42. Creating a legal framework for protecting all human beings, including refugees, asylum-seekers and migrants, from abuse - irrespective of their race, ethnicity, colour, descent or nationality - is only the first step in combating racism. States should adhere to the provisions of the Convention relating to the Status of Refugees of 1951 and its 1967 Protocol. The adoption of tolerant, open-minded, sensible and human rights-friendly policies towards migrants and asylum-seekers would send the right message to society at large.

43. Increasingly, individuals and groups flee persecution, disasters, or conflicts but do not cross borders. Racial and ethnic tensions are often exacerbated by the internal movement of peoples. The internally displaced may be subjected to ethnic and racial hatred, discrimination and violence. With the lack of an international agency to address the needs of the internally displaced, more attention should be given to their need for protection against racism. The Guiding Principles on Internal Displacement which were developed by the Representative of the Secretary-General on internally displaced persons are an important tool for States, other authorities, and intergovernmental and non-governmental organizations to use when addressing internal displacement.

B. The movement of information

44. Technological developments in the field of communications, in particular the Internet, have provided individuals and groups with formidable media of communication. However, the Internet is also used for abusive and even illegal purposes. Child pornography, hate speech, and the use of the Internet by racist groups to organize themselves and to promote their ideas and activities are disturbing developments.

45. Questions concerning competing rights arise: can the right to freedom of expression be limited or restricted if the speech advocates national, racial or religious hatred or constitutes incitement to discrimination, hostility or violence? Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) requires States parties to take measures to combat racial discrimination, in particular, to adopt "immediate and positive measures to eradicate all incitement to, or acts of, such discrimination ... with due regard to the Universal Declaration of Human Rights". Several States upon ratifying the Convention declared that the measures taken by virtue of article 4 should be reconciled with the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association. In this context, the reference to the Universal Declaration allows States to maintain this balance without undermining the need to enact and implement domestic legislation on the subject. Yet, many States have failed to pass and implement legislation.

46. Some approaches are emerging on the issue of balancing various rights in the context of hate speech and important jurisprudence has recently been established by various international and regional bodies, notably the Human Rights Committee, which the Commission on Human Rights could usefully consider. First, any decision to restrict any right or freedom must be approached with utmost care. It should always be kept in mind that the right to freedom of opinion and expression is a precious fundamental right, and perhaps even too fragile to survive in the face of frequent requests to restrict it. The International Covenant on Civil and Political Rights permits the restriction of rights under very narrow conditions in order to preserve the nature of a democratic society. Second, any restriction imposed on freedom of expression, even in the context of the Covenant, must be proportional to the Covenant right or value which the restriction serves to protect.

47. Internet providers could do much through self-regulation. There is also the strategy of public shame. As public sentiment against racism grows, the consumer will often be the final judge, and businesses may want to avoid a perception that they are complicit in racism. Many Internet providers now have a zero-tolerance policy for racist information and activities. Such action should be welcomed, publicized, praised and rewarded.

C. The movement of capital

48. Globalization has brought benefit to many societies, but individuals from disadvantaged groups are less able to benefit from the opportunities it offers. Minorities in many societies are being pushed to the margins of economic activity. For example, with the rapid changes in technology has come a new focus on skilled labour. This means that those groups that are denied access to adequate education because of racial discrimination find themselves unable to compete. In other countries, economic changes resulting in losses of jobs to third countries are also giving rise to racism and xenophobia.

49. Discrimination often leads to poverty and poverty often leads to discrimination. One major consequence of racism is the unequal distribution of resources between various groups in society. In certain markets, some ethnic groups have access only to low-paid jobs. They face multiple discrimination because they are poor and because they belong to a certain group. To compound the problem, the fact that individuals belong to poor or socially disadvantaged groups is often used to strengthen prejudices against them as being incapable and unproductive. As they are poor, such groups often have little access to the available remedies to combat racial discrimination. Government cuts in social spending tend to affect racially disadvantaged groups more.

50. Both the public sector and the private sector have a crucial role to play. Declared and undeclared policies have led to exclusion and discrimination against particular groups in the workplace. The international and local business communities, whose influence is rapidly increasing, could contribute a great deal to eradicating racism. It is important that they recruit fairly, ensure that they treat their employees without discrimination, and that their policies do not have an unintended discriminatory impact.

51. The public and private sectors could go beyond these basics, however. They could help to redress the effects of discrimination by adopting "special measures", in the meaning of article 2 (2) of the International Convention on the Elimination of All Forms of Racial Discrimination to redress the discrimination that certain individuals or groups have suffered. These measures should aim at reversing the historical injustices that placed particular groups in positions of disadvantage, particularly in the fields of education and employment. Such measures should go beyond ensuring mere formal equality.

52. It is also essential to deliver on the commitments that have been made in various forums concerning human rights and development. Adopting a rights-based approach to development, thereby raising the level of accountability in the development process and better empowering the intended beneficiary of development, in particular racial and ethnic minorities, offers the best hope of sustained progress.

IV. THE GENDER DIMENSION OF RACIAL DISCRIMINATION

53. As exemplified by the phenomenon of trafficking in women and girl children, women are often the victims of multiple forms of discrimination. Many times women are discriminated against because of gender, and because of their race, ethnicity, colour, nationality or descent. States should adopt concrete measures to address these issues. Early recognition of multiple forms of discrimination will assist in designing effective strategies to combat racism and racial discrimination as it affects women.

54. Much thought has been given to analysing the relationship between race and gender. The work of the United Nations Special Rapporteur on violence against women is particularly useful in this regard. Moreover, last year, CERD adopted General Recommendation XXV on the gender-related dimension of racial discrimination. Some forms of gender-related racial discrimination are directed against women because of their gender; others concern racial discrimination that may have consequences that affect primarily or only women, while others involve forms of racial discrimination that have a greater impact on women than on men.

55. The work of the two ad hoc international criminal tribunals highlights in a compelling manner the link between gender and racial discrimination, particularly during armed conflict. In both the former Yugoslavia and Rwanda, women faced unspeakable horrors: they were raped, tortured, forcibly impregnated, sexually abused, detained and "ethnically cleansed" because they were women and because they belonged to a certain race, ethnicity, religion or descent. The decisions of the tribunals, as well as the process of investigation, cross-examination and presentation of evidence highlighted this link. Special structures had to be established, for example in the witness protection unit, to deal with the victims who had undergone the ordeal of sexual violence.

56. The Rome Statute of the International Criminal Court also recognizes the importance of the link between gender and systematic discrimination. For the purposes of the Statute, imposing measures intended to prevent births within a national, ethnic, racial, or religious group is an act of genocide. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or other forms of sexual violence of comparable gravity are defined as crimes against humanity "when committed as part of widespread or systematic attack directed against

any civilian population, with knowledge of the attack". If such acts are committed in the context of war, they constitute war crimes. The Statute also establishes various structures within the Court that take into account the specific nature of the multiple forms of discrimination against women. For instance, the Victim and Witnesses Unit within the Registry shall include staff with expertise in trauma related to crimes of sexual violence. It is encouraging that an increasing number of States are signing and ratifying the Rome Statute of the International Criminal Court.

57. Another form of gender-specific discrimination is involuntary and coerced sterilization or forced use of contraception by women of a certain race, ethnicity, colour, nationality or descent. These may have an impact on the survival of the group and thus constitute genocide, war crimes, or crimes against humanity when carried out under certain circumstances. Indigenous women and others belonging to certain groups have historically suffered such practices.

58. Such women may also suffer discrimination in the workplace, including in recruitment, advancement, and in the receipt of benefits and entitlements. Women of particular ethnic groups are often relegated to menial labour, sometimes under "sweatshop" conditions, even in affluent economies. Migrant women, particularly those without a good command of the local language, are often the ones most vulnerable to economic exploitation.

59. Criminal justice systems also may need to reflect on how they treat women belonging to minority groups. Trafficked women are denied justice in many countries. There is evidence that women in prison are more vulnerable to multiple forms of oppression, including rape and sexual violence, if they belong to a minority group.

60. Pursuant to its General Recommendation XXV, CERD will begin to pay special attention to "the gender factors or issues which may be interlinked with racial discrimination". In this context, the Committee decided to "include in its sessional working methods an analysis of the relationship between gender and racial discrimination, by giving particular consideration to: (a) the form and manifestation of racial discrimination; (b) the circumstances in which racial discrimination occurs; (c) the consequences of racial discrimination; and (d) the availability and accessibility of remedies and complaint mechanisms for racial discrimination".

61. This is a welcome and promising approach. States should view this as an important opportunity to evaluate their laws, policies and practice with regard to gender and racism.

V. YOUTH AND RACISM

62. Children hold the key to the future. They also reflect the attitudes of the society in which they live. Bringing up children in a racist environment is a major negative factor in their social conditioning. Teaching them to reject racial hatred and discrimination can impact powerfully on the present and the future. State policies that tolerate, permit and encourage racial discrimination not only directly violate the rights of the children and youth who belong to the affected groups, but also serve to perpetuate intolerance, hatred and racism through their effect on the attitudes and judgements of young people of all groups.

63. Children are amongst those who suffer most from the consequences of racial discrimination. They are more vulnerable and can be affected more deeply by it. As they are still developing emotionally, physically and psychologically, children who suffer victimization can be marked for life by their experience.

64. Too many children are deprived of basic education, health care, food, or adequate housing because they do not belong to the "right" race, ethnicity, nationality or colour. They are poor, forced to work and sometimes trafficked. The harmful impact of trafficking of persons has already been described in this report and elsewhere. In this context, we need to think of the children themselves who are trafficked as well as the impact of trafficking on the children of the trafficked persons.

65. Children and youth are sometimes not only victims, they are also victimizers. In some societies, they are used by adults as a weapon of ethnic and racial wars. They have used and advocated violence, hatred and destruction against religious or ethnic minorities. They have killed and are killed; they have raped and are raped; they have tortured and are tortured. Children who themselves have been victims of racial or ethnic discrimination are easily manipulated when racism is used to motivate revenge.

66. The preparatory process for the World Conference has underlined the essential role that education plays in preventing and combating racial discrimination. The Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child have emphasized this connection by submitting as their contributions to the World Conference their general comments on the right to education (article 13 of the International Covenant on Economic, Social and Cultural Rights) and on the aims of education (article 29 (1) of the Convention on the Rights of the Child). The two comments stress that education which promotes an understanding and appreciation of human rights, including tolerance and respect for differences, is the most reliable and enduring antidote to the ignorance, unfounded fears and exploitation of prejudice which allow racism to thrive. Education of this kind goes beyond formal schooling to cover the child's experiences at home and within the community. Education that promotes human rights values must be a comprehensive, life-long and participatory process.

67. The media, broadly defined, have a central role to play. Children are increasingly affected by what they see and hear on radio and television. The media sometimes, knowingly or unknowingly, perpetuate or help strengthen negative stereotypes. They can present positive images of certain groups, thus promoting tolerance, diversity and non-discrimination. Governments have an obligation to encourage the mass media to disseminate information and material of social and cultural benefit to the child, and to the larger community.

68. It is essential that special attention be given to the impact of racism on youth and children. It is also important that young people participate in designing effective strategies to combat racism amongst their peers, and be given opportunities to participate in the World Conference process.

VI. CONCLUDING REMARKS

69. There should be no place for racism and racial discrimination in today's world. We need to learn to value our differences, rather than seek to eliminate them. As the United Nations Millennium Declaration affirmed: "Differences within and between societies should be neither feared nor repressed, but cherished as a precious asset of humanity."

70. Nobody comes into this world a natural-born racist. Racism is a product of social and political conditioning. Social attitude, economic insecurity, and the cynical manipulation of race issues for political purposes encourage the development of racial prejudice. Feelings of difference, like other issues profoundly deep in the consciousness and subconscious of human beings, can emerge under the right conditions and have negative manifestations such as racism. The structural assertion of difference can easily be transformed into racist policy. We need to reflect on these issues as we develop our policies and strategies to combat racism.

71. The non-governmental organizations have for many decades been at the forefront of the struggle against racism. Important work has already been done by the civil society in many countries. Much more rigorous and concerted efforts are still needed, however. It is essential that those who are fighting racism and racial discrimination are themselves protected from abuse, intimidation and harassment.

72. It is essential that States take their responsibility to eliminate all forms of racial discrimination seriously. They must halt all acts, measures and policies that result in racial discrimination, xenophobia and intolerance. They should elaborate plans of action that are tailored to their specific needs. In this regard, three issues particularly deserve our attention: institutions, education and special measures.

73. All States, at a minimum, need to ratify the International Convention on the Elimination of All Forms of Racial Discrimination and participate, fully and effectively, in its reporting procedures on a regular basis. In addition, we need laws, policies and institutions at a national level which give affect to the letter and the spirit of the Convention, including in extending protection to the victims of racial discrimination. We need to focus on the judiciary and law enforcement institutions to ensure that they are free from discrimination and that they can effectively combat it. Furthermore, many societies have found that the creation of independent institutions, such as an ombudsman, a human rights commission, or a race relations commission, to be particularly valuable provided that those institutions are guaranteed independence, adequate resources and appropriate powers.

74. We need to focus on education. We are all the products of what we learn at home, at school and at university, through the media, through literature, and through our interactions with society at large. We need to promote the value of diversity and respect for the other. We need to learn how to live and love and labour together and we need to teach our children the same. We also need to ensure that education gives a full and accurate account of historical wrongs, including the cruelty of the slave trade and colonialism, and an account of the contribution of all racial and ethnic groups to the development and enrichment of societies present and past.

75. We need to think of special measures to redress violations. We need to reflect on the past, the present and the future. We need to think of how we can reverse historical injustices that have consigned certain groups to positions of disadvantage. We need to go beyond trying to ensure equality of individual opportunity merely by making discrimination illegal. But above all, we need to rise above narrow differences. We should not allow hatred and revenge to distract us from the solemn task of eradicating racism in all its manifestations. Each country should look afresh at itself and treasure and protect its diversity. Racism then will be seen as an attack on the "Self" of society and no longer as an affront to the "Other".

Annex

COUNTRY MISSIONS UNDERTAKEN BY THE HIGH COMMISSIONER

Following is a brief description of the major country missions undertaken by the High Commissioner since her report to the fifty-fifth session of the General Assembly. Missions relating to preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the High Commissioner's mission to the occupied Palestinian Territories, Israel, Egypt and Jordan, are covered in separate reports before the Commission.

Democratic Republic of the Congo

The High Commissioner visited the Democratic Republic of the Congo from 1 to 3 October 2000 in response to an invitation by the late President, Laurent-Désiré Kabila, made during the Assembly of Heads of State and Government of the Organization of African Unity in Algiers in 1999 and reiterated during the fifty-sixth session of the Commission on Human Rights.

The overall objective of the mission was to assess, through dialogue with the major stakeholders, the human rights situation in the country, in order to evaluate how OHCHR could provide appropriate assistance in addressing the most pressing concerns. Specific objectives related to follow-up of Security Council resolution 1304 (2000); evaluating the implementation of recommendations made by the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, thematic mechanisms and treaty monitoring bodies; the signing of a revised memorandum of understanding (MOU) on the Human Rights Field Office in the Democratic Republic of the Congo; the signing of the terms of reference of cooperation between OHCHR and the United Nations Observer Mission in the Democratic Republic of the Congo; and presentation to the major stakeholders of OHCHR's subregional strategy for Central Africa. The High Commissioner also promoted the World Conference in terms of its preventive value in respect of ethnic and racial conflict.

The High Commissioner insisted on the need to establish accountability for the gross human rights violations and bring those responsible for human rights violations to justice; to build an independent judiciary; and for foreign troops to withdraw from the territory of the Democratic Republic of the Congo.

China

The High Commissioner visited China on 20 and 21 November 2000. The principal objectives of the mission were to conclude an MOU on technical cooperation in the field of human rights; to discuss the modalities for its implementation; to discuss a range of human rights concerns with the Government; to deliver an opening address to and participate in a workshop on economic, social and cultural rights; and to further relationships with different partners in China, in particular United Nations agencies.

The MOU signed in November 2000 had built upon the earlier memorandum of intent signed in Beijing on 7 September 1998 during the High Commissioner's first visit. The basis for cooperation between OHCHR and China was further developed when the High Commissioner attended the Eighth Workshop on Regional Arrangements for the Promotion and Protection of Human Rights in the Asian and Pacific Region in Beijing in March 2000. The first activity under the MOU, a workshop on the punishment of minor crimes, was scheduled to take place on 26 and 27 February 2001 in Beijing.

Venezuela

The High Commissioner visited Venezuela on 29 and 30 November, at which time she met with high-level officials, including Vice-President Isaias Rodríguez (the High Commissioner subsequently met President Chávez in Mexico). Issues addressed during the course of the mission included implementation of international human rights norms; the independence of the judiciary and the rule of law; the situation of non-governmental organizations and trade unions; and the protection of minorities. The High Commissioner also attended a seminar entitled "International protection and promotion of the rights of the person", organized by the Institute of High Diplomatic Studies of Venezuela, at which she focused on the human rights significance of the establishment of the International Criminal Court.

Mexico

In response to an official invitation extended by the Government of Mexico in October 2000 to participate in the ceremonies marking the transfer of executive federal power, the High Commissioner visited Mexico from 1 to 3 December 2000. She conducted meetings with representatives from the state and Federal Governments, Mexico's human rights institutions, non-governmental organizations and members of the United Nations system in Mexico. At the invitation of President Fox she accompanied him to Oaxaca, where the President stressed his commitment to human rights and signed the technical cooperation project with the High Commissioner.

The main issues addressed during the visit included: the new administration's commitment to human rights; OHCHR's technical cooperation programme with Mexico; the situation of vulnerable groups, especially migrants, indigenous peoples, women and children, and the need to devise special measures to ensure that their rights are protected; the question of torture and the need to curb impunity through effective governmental action and through the strengthening of national institutions; the situation of human rights in the State of Chiapas and the role and functions of the armed forces, particularly regarding police functions; and the World Conference.

Colombia

The High Commissioner visited Colombia on 3 and 4 December 2000. The main objectives of the mission were to permit the High Commissioner to assess at first hand the human rights situation on the ground and to discuss with the Government, including the

President of Colombia, Mr. Andrés Pastrana, strategies for the promotion and protection of human rights. In this context, the High Commissioner raised problems of paramilitarism, internally displaced population, and the protection of human rights defenders and labour union leaders. The High Commissioner also highlighted the obligations of guerrilla groups to respect human rights and international humanitarian law, and raised issues relating to the security of United Nations personnel. The High Commissioner was pleased to note the important role played by the OHCHR Field Office in Colombia, the activities of which are the subject of a separate report before the Commission.